

DJM:

**United States District Court**

STATE AND

MINNESOTA

DISTRICT OF

UNITED STATES OF AMERICA

V.

FAWAZ MAHMOUD WAZWAZ

a/k/a Mike Wazwaz

**CRIMINAL COMPLAINT**

CASE NUMBER:

06mij 45355m

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about March 18, 2005 in Hennepin county, in the State and District of Minnesota defendant(s) did, (Track Statutory Language of Offense)

having devised a scheme and artifice to defraud Countrywide Home Loans, and for obtaining money and property of Countrywide Home Loans by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice, cause Countrywide Home Loans to wire \$367,533.44 from a place outside of the state of Minnesota to U.S. Bank located within the state of Minnesota

in violation of Title 18 United States Code, Section(s) 1343 and 2(a)

I further state that I am a(n) Special Agent and that this complaint is based on the following

Official Title

facts:

SEE ATTACHED AFFIDAVIT

RECEIVED

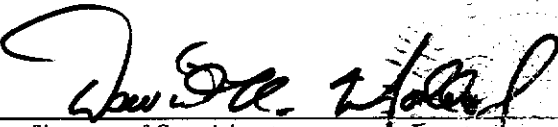
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CLERK U.S. DISTRICT COURT MINNEAPOLIS

**SCANNED**

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U.S. DISTRICT COURT MPLS

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No


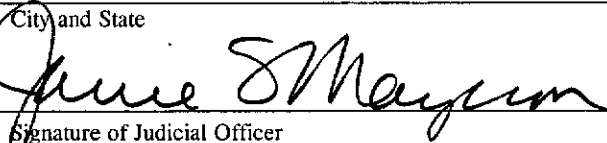
Signature of Complainant  
David R. Moldal  
FBI

Sworn to before me, and subscribed in my presence,

12/6/06  
Date

at Minneapolis, MN  
City and State

Janie S. Mayeron, U.S. Magistrate Judge  
Name & Title of Judicial Officer

  
Signature of Judicial Officer

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN )

AFFIDAVIT OF DAVID R. MOLDAL

David R. Moldal, being duly sworn upon oath, deposes and states as follows:

1. I am a special agent of the Federal Bureau of Investigation and have been so employed for approximately 2 ½ years. My primary duties are to investigate white collar offenses such as bank fraud, wire fraud, mail fraud and money laundering.

2. Your affiant makes this affidavit in support of an application for a complaint and arrest warrant for Fawaz Mahmoud Wazwaz because there is probable cause to believe that Mr. Wazwaz committed wire fraud on or about March 18, 2005, as more fully described below.

**BACKGROUND**

3. Your affiant is investigating a mortgage fraud scheme involving Commonsense Mortgage, Inc. ("Commonsense"), a business engaged in the mortgage brokerage business located in Shoreview, Minnesota. A brief description of my investigation of Commonsense will illuminate the wire fraud committed by Fawaz Mahmoud Wazwaz on March 18, 2005.

4. A mortgage broker such as Commonsense is in the business of bringing together borrowers and lenders. More technically, a mortgage broker "originates" loans by finding borrowers, preparing loan applications based on the financial characteristics of those borrowers, and then submitting those applications to lenders to

induce lenders to loan to those borrowers. For this service, lenders and, in some cases, borrowers, pay mortgage brokers a fee. In turn, lenders rely upon the documents prepared by mortgage brokers in making the decision whether or not to loan to a particular borrower.

5. Fawaz Mahmoud Wazwaz, also known as Mike Wazwaz, worked as a loan officer at Commonsense from approximately July of 2004 to August of 2005. During that period, Mike Wazwaz devised a scheme to defraud lenders which involved some or all of the steps outlined below, which your affiant, by examining appraisals, loan files, title files and bank records of dozens of properties, has seen repeatedly throughout his investigation:

a. The first step is to locate a piece of residential real property for sale and then have a colluding appraiser prepare an inflated appraisal of the property reflecting a substantially higher than true market value of the property.

b. The second step is to recruit a colluding buyer, or "straw buyer," to act as the putative purchaser of the property at the inflated value but who, in reality, never provides any of the consideration for the property; never takes possession of the property; and generally lacks the wherewithal to qualify for a loan.

c. The third step is for Commonsense and/or Fawaz Mahmoud Wazwaz to fill out a loan application for the

colluding buyer which fraudulently overstates the colluding buyer's income and assets and which falsely recites the buyer's intent to occupy the real property as a residence.

d. The fourth step is to conduct the closing of the transaction with a colluding closing company willing to disburse checks in a highly irregular and obviously fraudulent way, with substantial sums being paid to Fawaz Mahmoud Wazwaz and/or Commonsense, and in many instances to the colluding buyer. In cases where the seller also colludes with Commonsense and Fawaz Mahmoud Wazwaz in the scheme, the seller also receives substantial sums of money from the proceeds of the fraudulently induced loan.

e. The fifth step is to simply default on the loan, leaving the lender with collateral worth substantially less than was represented and in which the borrower has no equity and thus no incentive to save from foreclosure.

f. An important feature of the scheme is that Commonsense and/or Fawaz Mahmoud Wazwaz provides the colluding buyer with funds which the buyer passes off as his own money and uses for the down payment at closing because, as related above, the putative buyer is generally unable or unwilling to come up with his own funds for the down payment. The colluding closing company then pays Commonsense or Fawaz Mahmoud Wazwaz an equivalent amount out of closing. The

result each time is that the colluding buyer -- that is, the individual obligated to repay the loan -- has no equity in the property and thus no incentive to pay the loan, making default likely if not inevitable.

**PARTICIPATION IN THE SCHEME BY FAWAZ MAHMOUD WAZWAZ**

6. There is probable cause to believe that Fawaz Mahmoud Wazwaz executed the mortgage fraud scheme described in paragraph 5, on, among other times, March 18, 2005, as more fully described below.

**5906 BENJAMIN STREET NORTHEAST, FRIDLEY, MINNESOTA**

7. Tawfiq Othman Wazwaz is a cousin of Fawaz Mahmoud Wazwaz and has at least two siblings, namely, Houd Othman Wazwaz and Tarek Othman Wazwaz. Publically available records provided by Choicepoint reveal that, on June 8, 2001, Houd Othman Wazwaz purchased a single-family dwelling located at 5906 Benjamin Street Northeast in Fridley, Minnesota (hereinafter, the "Benjamin Street Property"), and Houd Wazwaz, his wife Amy Wazwaz and their children moved into the house and used it as their primary residence. Surveillance and my examination of property records reveal that they continued to occupy the Benjamin Street Property for months after the sale of the property to Tawfiq Wazwaz.

8. Records subpoenaed from ABN Amro Mortgage Group, Inc. reveal that on approximately July 23, 2002, and for reasons which are not clear to your affiant, Houd and Amy Wazwaz purported to

sell the Benjamin Street Property to Tarek Othman Wazwaz. However, Amy Wazwaz testified under oath that neither she nor her husband Houd moved out of the home after the purported sale, and Tarek Wazwaz told one of my colleagues in January of 2006 that he never lived in the property even though Tarek Wazwaz was the owner of record from July 23, 2002 until March 18, 2005.

9. Records subpoenaed from Countrywide, publically available records from the Anoka County Recorder's Office, and records subpoenaed from Title and Closing, Inc. (see paragraph 10c below) indicate that in March of 2005, Tarek Othman Wazwaz purported to sell the Benjamin Street Property to Tawfiq Othman Wazwaz in a transaction brokered by Commonsense and which was designed, in the manner described above, fraudulently to induce Countrywide to loan Tawfiq Wazwaz approximately \$405,000 to fund his putative purchase of the Benjamin Street Property.

10. More specifically, your affiant has conducted a review of the entirety of the title file provided by Title and Closing, Inc.; TCI bank records from U.S. Bank and, in addition, has conducted interviews, which reveal the following:

a. Your affiant reviewed the appraisal in Countrywide's file for the Benjamin Street Property upon which Countrywide relied in making its decision whether to loan to Tawfiq Wazwaz. The appraisal was prepared by David Hughes, a colluding real estate appraiser well-known to me through my

investigation of Commonsense who has prepared dozens of inflated appraisals for Fawaz Mahmoud Wazwaz which I have reviewed in my investigation of Commonsense. Mr. Hughes appraised the Benjamin Street Property at \$450,000, a substantially inflated value for that property.<sup>1</sup> Your affiant spoke to Mr. Hughes on July 13, 2005 and he admitted that he has done numerous appraisals for Fawaz Mahmoud Wazwaz and always appraises properties at the value specified by Fawaz Mahmoud Wazwaz rather than independently determining value in accordance with accepted practices in the real estate appraisal industry.

b. Countrywide's loan file for the Benjamin Street Property reveals that, on March 2, 2005, Tawfiq Othman Wazwaz signed two loan applications prepared by Fawaz Mahmoud Wazwaz (one for a purchase money loan in the amount of \$360,000 to be secured by the Benjamin Street Property, and one for a second loan in the amount of \$45,000, also to be secured by the Benjamin Street Property) submitted to Countrywide by Commonsense which contain material misrepresentations. Tawfiq Othman Wazwaz represented in the loan applications that he

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<sup>1</sup>Your affiant knows that this value is inflated for, among other reasons, that Countrywide subsequently had an appraisal review conducted of Hughes' appraisal. The reviewing appraiser determined that many of the comparables utilized in Hughes' report were in fact not comparable at all and further from the Benjamin Street Property than reported in Hughes' appraisal.

intended to occupy the Benjamin Street Property as his primary residence, which he never intended to and never did do. Specifically, nothing changed before, at the time of or after the closing of Tawfiq Wazwaz's purchase of the Benjamin Street Property. As set forth more fully in paragraph 8, paragraph 11, and as confirmed by recent surveillances and public records checks, Tawfiq Wazwaz continued to live at his true primary residence of 8724 Hillswick Trail in Brooklyn Park; Tawfiq Wazwaz did not put his true primary residence on the market; Houd and Amy Wazwaz continued to live in the Benjamin Street Property; and Tawfiq Wazwaz paid none of his own money toward the Benjamin Street Property at closing. This precise fact pattern has played itself out in connection with dozens of transactions brokered by Fawaz Mahmoud Wazwaz at Commonsense involving other straw buyers, as your affiant has seen by reviewing numerous closing files with respect to other transactions brokered by Commonsense and by interviewing some of the parties involved in those transactions. The thrust of the loan application filled out by Fawaz Mahmoud Wazwaz -- that Tawfiq Othman Wazwaz wanted to borrow purchase money for the Benjamin Street Property to occupy it as his primary residence -- was, as he at all times well knew, entirely false.



c. Your affiant has reviewed the entire title file relating to the closing of Tawfiq Wazwaz's purchase of Benjamin Street Property provided by Title and Closing, Inc. ("TCI") and in addition, spoke to Pat Nolan, the President of TCI, on several occasions. Based upon my review of the documents and upon my interview of Mr. Nolan, I learned that, on or about March 18, 2005, Tawfiq Othman Wazwaz closed the purported purchase of the Benjamin Street Property at TCI in Bloomington, Minnesota, with the assistance of a colluding closer named Genevieve McCullough, who has closed numerous fraudulent real estate transactions for Fawaz Mahmoud Wazwaz and is well-known to your affiant. Your affiant conducted an interview of Ms. McCullough on October 4, 2005 during which she admitted to me that she has closed numerous real estate transactions brokered by Fawaz Mahmoud Wazwaz and that she disburses checks at such closings in a highly irregular manner directed by Fawaz Mahmoud Wazwaz. Examples of such irregularities include checks being cut out of closing to the buyer of the property and, in almost all instances, substantial checks being cut out of closing to Fawaz Mahmoud Wazwaz, as Ms. McCullough admitted. At the Benjamin Street Property closing, Tawfiq Othman Wazwaz signed a U.S. Department of Housing and Urban Development Settlement Statement (commonly known as a HUD-1) in which Mr. Wazwaz

declared that he was providing \$47,131.09 of his own money to close the transaction and to induce Countrywide to fund the two loans. For the reasons detailed in paragraph 11 below, your affiant knows that Fawaz Mahmoud Wazwaz provided this money to Tawfiq Othman Wazwaz to facilitate the closing.

d. Your affiant has reviewed U.S. Bank records supplied to me by TCI. Those records reveal that, on or about March 18, 2005, Countrywide wired \$413,095.94 to the escrow account of Title and Closing, Inc. at U.S. Bank in Minneapolis, Minnesota from outside of the State of Minnesota to fund the two loans. Countrywide was fraudulently induced to fund the loans by, among others, Fawaz Mahmoud Wazwaz's false representations to Countrywide that Tawfiq Wazwaz i) provided \$47,131.09 of his own money to make the down payment on the Benjamin Street Property (my basis for knowing that the money used to make the down payment on the Benjamin Street Property came from somebody other than Tawfiq Wazwaz is set forth in paragraph 11 below); and ii) intended to use the Benjamin Street Property as his primary residence, the bona fides of which is belied by the facts, known to me through surveillance and public records checks, that Mr. Tawfiq Wazwaz remained in his Brooklyn Park home until he was sentenced to 30 months of imprisonment by Judge Kyle earlier this year and that Houd and Amy Wazwaz continued to live at the Benjamin Street Property

for months after the purported sale of the property to Tawfiq Wazwaz.

11. Your affiant has subpoenaed bank records, as well as the closing file from TCI, which illustrate that Tawfiq Othman Wazwaz did not, in fact, provide any of his own money, let alone \$47,131.09, for the down payment at the closing. By examining the title file provided by TCI, your affiant determined that Tawfiq Wazwaz presented InterBank cashier's check 3043740 in the amount of \$47,200 at the closing as the down payment for the Benjamin Street Property. Your affiant then subpoenaed InterBank to determine how this check was procured. The InterBank records, which included InterBank cashier's check 3043740 and information about the origin of the funds used to purchase it, reveal that the check was purchased with money from an account owned and controlled by Fawaz Mahmoud Wazwaz. The TCI disbursement report with respect to the transaction, which your affiant has reviewed, states that Fawaz Mahmoud Wazwaz received a check back in the same amount (\$47,200) directly out of the closing of the Benjamin Street Property, a fact not disclosed to Countrywide. InterBank records reviewed by your affiant reveal that this check, made payable to Fawaz Mahmoud Wazwaz, was deposited into precisely the same InterBank account out of which was withdrawn the \$47,200 used to buy InterBank cashier's check 3043740 Tawfiq Wazwaz presented as the down payment on the Benjamin Street Property at closing. Thus, Fawaz Mahmoud Wazwaz

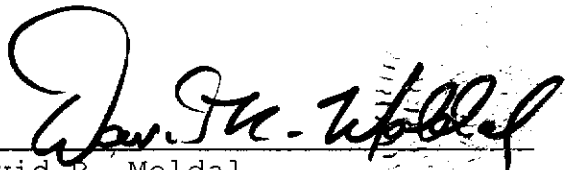
had simply conduited \$47,200 through the closing of Tawfiq Othman Wazwaz's "purchase" of the Benjamin Street Property, with the result that Tawfiq Othman Wazwaz did not accrue any equity in the Benjamin Street Property.

12. Your affiant has reviewed the disbursement sheet provided by TCI reflecting disbursements made out of the closing, copies of which were provided to me by TCI. These documents show that the economic result of the transaction was that Tarek Othman Wazwaz, the putative seller of the Benjamin Street Property, received a check for \$161,836.86. He confirmed receipt of this money during an interview conducted by one of my colleagues of him on January 13, 2006. In addition, Fawaz Mahmoud Wazwaz received an additional \$8,000 in some form of unspecified fee, and Commonsense Mortgage received a fee in the amount of \$13,645. After the closing, the loan went into default, and Countrywide is now left with a piece of collateral in which the "borrower" -- Tawfiq Othman Wazwaz -- has no real interest and thus no incentive to pay back the note. More specifically, records supplied to me by Countrywide reveal the last payment on the larger of the two notes was made on August 22, 2005. Only one payment was ever made on the smaller note. However, Tawfiq Othman Wazwaz made no payments on either of

the two loans.<sup>2</sup> The outstanding principal balance of the two defaulted loans was \$404,895.00 in February of this year.

13. The sham nature of the transaction is confirmed by the fact that Amy and Houd Wazwaz continued to reside in the Benjamin Street Property after the purported sale to Tawfiq Othman Wazwaz, and Tawfiq Othman Wazwaz has never resided there, but rather continued to reside at his actual principal residence located in Brooklyn Park, Minnesota after his purported purchase of the Benjamin Street Property.

Further your affiant sayeth not.

  
David R. Moldal

Sworn and subscribed before me  
this 6<sup>th</sup> day of December, 2006.

  
Janie S. Mayeron  
United States Magistrate Judge

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<sup>2</sup>Payments on the large loan were made on June 14, 2005, July 13, 2005, August 7, 2005 and August 22, 2005. Tawfiq Wazwaz made none of these payments. Rather, HW Group, a business controlled by Houd Othman Wazwaz, made these payments.